

SIRP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
GRAND RAPIDS DIVISION

KEITH STARKE,

) Case No.:

Plaintiff,

)
)
) Hon.

v.

FIFTH THIRD BANK,

) Demand for Jury Trial

Defendant.

)
)
)

FILED - GR
August 18, 2015 11:36 AM
CLERK OF COURT
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: MKC / SCANNED BY: JWL/ABN

1:15-cv-832

**Robert J. Jonker, Chief Judge
U.S. District Judge**

KEITH STARKE (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the following against FIFTH THIRD BANK (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint alleges that Defendant negligently, knowingly and/or willfully violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (TCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 28 U.S.C. 1331.
3. Because Defendant conducts business in the State of Michigan, personal jurisdiction is established.
4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

5. Plaintiff is a natural person who resides in St. Joseph, Berrien County, Michigan.
6. Defendant is a business entity with its principal place of business in Cincinnati, Ohio.
7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. Defendant places collection calls to Plaintiff seeking and attempting to collect an alleged debt.
9. Defendant places collection calls to Plaintiff's cellular telephone at phone number (269) 519-40XX
10. Defendant places collection calls to Plaintiff from phone numbers including, but not limited to, 812-590-4192, 614-784-8783, 239-225-2099, 773-981-9135, 866-450-0037, 239-225-2099.
11. Based upon the timing and frequency of Defendant's calls and per its prior business practices, Defendant's calls were placed with an automated dialing system ("auto-dialer").
12. On March 26, 2015, Plaintiff spoke with Defendant's representative, "Steve," and requested that Defendant cease placing calls to his cellular telephone and to correspond only in writing.
13. Plaintiff revoked any consent, express, implied, or otherwise, to receive automated telephone calls from Defendant in the course of the conversation on or around March 26, 2015.

14. Despite Plaintiff's request to cease, Defendant placed at least fifty-six (56) automated collection calls to Plaintiff without prior express consent to do so.

COUNT I

DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

15. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).
16. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

17. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);
18. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B) and 47 U.S.C. § (b)(3)(C);
19. All court costs, witness fees and other fees incurred; and
20. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

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DEMAND FOR JURY TRIAL

Plaintiff, KEITH STARKE, requests a jury trial in this case.